



April 13, 2020

U.S. Congress

RE: COVID-19 and Students with Disabilities

Dear Member of Congress,

The National Center for Special Education in Charter Schools (the Center) is a leader and partner with charter school authorizers, charter networks, and charter schools across the U.S. and the leading national voice regarding educating students with disabilities in the charter sector. We are focused on ensuring that the over 3000,000 students with disabilities have equal access to public charter schools and that the nearly 7,000 charter schools across 43 states and the District of Columbia are designed and operated to enable all students to succeed. At the same time, we are equally committed to supporting access to high-quality education for all students with disabilities, regardless of whether they are enrolled in traditional district schools or public charter schools.

While we acknowledge that the rapidly escalating COVID-19 pandemic is an unprecedented national challenge, we do not believe now is the time to eliminate or reduce, even temporarily, any statutory requirements of either the Individuals with Disabilities Education Act (IDEA) or Section 504 of the Rehabilitation Act (Section 504). Therefore, we write to make the following recommendations:

- I. **Uphold the civil rights of students with disabilities.** Because the IDEA and Section 504 provide the basis for civil rights protections for students with disabilities, waiving key provisions under one or both laws would upset the delicate balance between equity and access that our most vulnerable students rely upon to receive an education in public schools. No waivers should be provided under either law.

The Center is extremely pleased the Secretary of Education has clarified for states, districts and schools that the federal disability law provides sufficient flexibility to ensure all students, including students with disabilities, can benefit from remote education as communities determine the best approach to instruction during the COVID-19 crisis.ⁱ In our work with charter schools, we are aware of many schools, including those who operate as their own LEAs, who are already working to provide distance instruction in partnership with families while finding creative and innovative ways to ensure teachers and students can engage in instruction and learning and in the provision of related services. While the IDEA has specific requirements, including important timelines, the Department has made clear that sufficient flexibility exists for schools to extend those timelines when needed while concurrently working with families to make good decisions that support students.

- II. **Mandate the FCC to Lift E-Rate Restrictions and Provide Subsidized Rate.** Congress must assure the Federal Communications Commission lifts restrictions and allow schools and libraries to

purchase take-home devices or other types of home internet connections with federal funds, and to ensure access to the over 7 million households estimated to lack reliable internet access.

- III. **Provide IDEA funding to states.** Specific funding is needed to help states and Local Education Agencies (LEAs) work together with school teams and parents to make decisions about providing special education services and supports to students as allowed within their unique and individual circumstances.

It takes good planning, sufficient resources and adequate technical assistance (TA) for schools and districts to pivot quickly and provide remote education so students do not experience huge learning lags. With clear guidance now in place for schools to identify paths forward, we urge Congress to expand funding to support innovative approaches to educating students with disabilities. Therefore, we recommend the following within the next COVID-19 stimulus bill:

1. **IDEA Part B: Invest \$11.3 Billion**

An additional investment in Part B state grants would help states develop the technology, additional personnel, and immediate technical assistance to state and local schools systems to adjust to the new, and possibly, long-term reality of providing a free and appropriate public education to students across the nation who are sheltering at home. This would include the planning for recovery and compensatory services when students are able to safely go back to school.

2. **IDEA Part C: Invest \$500 million; IDEA Part B Section 619: Invest \$400 million**

IDEA's early childhood programs serve over 1 million infants, toddlers and preschool children with disabilities and their families through Part C and Part B Section 619, respectively. Over the last twenty years, both programs have increased the number of children served by approximately 50% and have proven that this early intervention leads to improved outcomes. These children and their families will require extra support as they navigate important developmental milestones with their children including for 3-year old children transitioning from Part C to preschool programs.

3. **IDEA Part D Programs: Invest \$300 million**

IDEA's Part D focuses on preparing personnel, disseminating information, providing resources to families through parent training and information centers, and utilizing technology. This is the only program supporting educator preparation for special educators. Given the existing shortage of special educators and the new needs of students that the crisis demands, Congress must support states in developing emergency programs to train and certify educators.

It is important for us to emphasize that we will only support special education funding that is securely attached to the full provision of rights under the IDEA and other civil rights laws.

The requested funding increases are critical to help offset the enormous costs incurred by schools and districts as they make investments in technology products, services, and personnel training in their move to remote and distance education. Unfortunately, the Coronavirus Aid, Relief, and Economic Security (CARES) Act enacted on March 27 provided no dedicated funding

for serving students with disabilities. Instead, state education agencies, school districts, and governors have considerable discretion in how to apportion \$13 billion among various authorized uses for K-12 education. In fact, the total elementary and secondary education funding under CARES is well under 1% of the \$2 trillion total.

As the Center continues assisting schools and districts in adjusting to this new reality while still ensuring that students with disabilities have equitable access to remote learning, we ask Congress to stand firm in maintaining the rights and protections of students with disabilities by encouraging and supporting states, LEAs, and schools in identifying ways to provide distance learning opportunities without rolling back IDEA requirements through waivers.

We strongly urge you to significantly increase IDEA funding as part of the next COVID-19 stimulus bill. We must work together to ensure that schools have adequate resources to serve every child with a disability and provide equitable educational opportunities to all.

If you would like further input as you develop the next COVID stimulus bill, or if you would like specific examples of charter schools and districts that are responding quickly and robustly to the needs of students with disabilities in this current public health crisis, please contact Wendy Tucker, Sr. Director of Policy at wtucker@ncsecs.org. In addition, the Center very recently announced its involvement in a new coalition, known as the Educating All Learners Alliance (EALA), that is committed to resource-sharing, community-building, and supporting the efforts of the education community in meeting the needs of complex learners during this global pandemic. We invite you to visit EALA's newly-launched website, EducatingAllLearners.org, which serves as a hub for resources and promising practices for educators serving students with disabilities.

Sincerely,



Lauren Morando Rhim, Ph. D.
Executive Director

¹ Office for Civil Rights & Office of Special Education & Rehabilitative Services (March 21, 2020). "Supplemental Fact Sheet Addressing the Risk of COVID-19 in Preschool, Elementary and Secondary Schools While Serving Children with Disabilities." U.S. Department of Education: Washington, DC. Available at: <https://www2.ed.gov/about/offices/list/ocr/frontpage/faq/rr/policyguidance/Supple%20Fact%20Sheet%203.21.20%20FINAL.pdf>